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ALSTON & BIRD LLP
BANK OF AMERICA PLAZA
101 SOUTH TRYON STREET, SUITE 4000
CHARLOTTE, NC 28280-4000

EXAMINER

MOONEYHAM, JANICE A

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3629

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/834,156
Filing Date: April 12, 2001
Appellant(s): CHEN ET AL.

Trent A. Kirk
For Appellant

EXAMINER'S ANSWER

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This is in response to the appeal brief filed May 16, 2006 appealing from the Office action mailed November 22, 2005.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

5832451	FLAKE et al	11-1998
5832454	JAFRI et al	11-1998

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 103

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

1. Claims 1-2, 5-8, 12-14, 16-17, 24-25, 28-31 and 41-42 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flake et al (US 5,832,451) (hereinafter referred to as Flake).

Referring to Claims 1, 5, 24, 28 and 41:

Flake discloses a method and machine readable medium having stored instructions for making travel related bookings, comprising:

providing access to a plurality of computer reservation systems (CRSs) (Figure 1 (14))for a client initiating a travel booking request, (col. 3, lines 16-34 (Apollo, Sabre, Worldspan and Amadeus; and

allowing the client to book at least one travel item segment from any one of the accessible CRSs (Figure 8 (196 Book Air Activity, 200 Book Rail Activity, 204 Book Car Activity, 208 Book Hotel Activity, 212 Book Special Needs Activity), col. 20, lines 16-19);

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generating and storing a travel itinerary booking record including information associated with at least one booked travel segment (PNR col. 8, lines 49-57; col. 9, lines 57-62; and col. 11, lines 31-38);

wherein at least one of the providing, allowing, and generating steps is performed by a data processing system (col. 3, lines 16-34; col. 5, lines 1-12)

Flake does not disclose that the information generated in the travel booking record includes information identifying each CRS for a respective booked travel item segment.

However, this data is determined to be non-functional descriptive data not related to the steps of the method. The method steps would be performed the same regardless of what type data is on the record since the data not functionally interrelated with the steps of the method and thus will not distinguish the claimed invention from the prior art in terms of patentability. - see *In re Gulack*, 703 F.2d 1381, 1385, 217 SUPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ 2d 1031 (Fed. Cir. 1994).

Furthermore, the Examiner takes Official Notice that it is old and well known to document and record information associated with travel items so as to have the information available if the information is needed.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate into the travel management method of Flake a passenger travel record which includes the CRS for a booked travel segment so that all of the necessary information is in the one record and since the business practice of documenting travel arrangements in the PNR and

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keeping this information updated is designed to help the travel industry as well as the traveler by being able to access this information as needed.

Referring to Claim 2, 25 and 42:

Flake discloses a method and medium wherein a travel item segment is one of an air segment, a car segment, or hotel segment (col. 9, lines 34-37, Figure 7 (150-164), Fig. 8 (196 Book Air Activity, 200 Book Rail Activity, 204 Book Car Activity, 208 Book Hotel Activity)).

Referring to Claims 8 and 31:

Flake discloses a method and medium wherein providing access to the plurality of computer reservation systems includes:

reading a predefined selection of the plurality of CRSs to be accessed during the travel booking request (col. 3, line 59 thru col. 4, line 3 (vendor preferences) (a list of preferred vendors (e.g. airlines)); and

accessing the selected plurality of CRSs to check the availability of travel items at the CRSs for the travel booking request (col. 10, lines 54-63, Fig. 9 Block 240).

Referring to Claim 12:

Flake discloses a travel management system (TMS) for making travel related bookings, the TMS comprising:

a server to provide access to a plurality of CRSs for a client, (Figure 1 (14); and

a booking engine to allow the client to book at least book a travel item segment (Figure 1 (10), col. 5, lines 3-6 (process and display all available

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customer reservation information.), wherein the booking engine generates a passenger name record (PNR col. 8, lines 49-57; col. 9, lines 57-62; and col. 11, lines 31-38).

The type data stored in the PNR is determined to be non-functional descriptive data. The structure of the system would be the same regardless of what type data is on the record since the data is not functionally interrelated with the structure and thus will not distinguish the claimed invention from the prior art in terms of patentability. - see *In re Gulack*, 703 F.2d 1381, 1385, 217 SUPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ 2d 1031 (Fed. Cir. 1994).

Referring to Claim 13:

Flake discloses a system wherein a travel item segment is one of an air segment, a car segment, or a hotel segment (Figure 7 150-164), col. 9, lines 34-37).

Referring to Claim 14:

Flake discloses a system further comprising a database *to store a super passenger name record (PNR) including the at least one booked travel item segment, the super PNR storing a CRS designation for each booked travel segment* (Figure 1 (18, 20), col. 3, line 55 thru col. 4, line 3). The italicized language is directed to intended use of the system and to non-functional descriptive data as to the information content being stored in the database and does not result in a structural or functional difference with respect to prior art. See *in re Schreiber*, 44 USPQ 2d 1429 (CAFC 1997) and *In re Gulack*, 703 F.2d.

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1381, 1385, 217 SUPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ 2d 1031 (Fed. Cir. 1994) The database in Flake is fully capable of storing all of this data.

Referring to Claims 6, 16 and 29:

A method and system further comprising a client interface *to cause the display of the super PNR to the client* (Fig. 2 (30) (workstation, col. 5, lines 3-6, col. 10, lines 1-13, Fig. 8 (186)). Once again the italicized language is directed to the intended use of the interface and the information content being displayed which does not result in a structural or functional difference with respect to the prior art. The workstation in Flake is fully capable of displaying this information.

Referring to Claims 7, 17 and 30:

Flake discloses a method and system wherein the client interface (workstation (30)) allows the client to modify the PNR (col. 6, lines 23-27 – updating customer information in the business entity or individual profiles, Fig. 13 (414), Fig. 15 (478-482)).

2. Claims 9-11, 18-23, 32-40 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Flake in view of Jafri et al (US 5,832,454) (hereinafter referred to as Jafri).

Referring to Claims 9 and 32:

Flake does not explicitly disclose wherein the predefined selection of the plurality of CRSs includes a default.

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However, Jafri discloses a method and medium wherein the predefined selection of the plurality of CRSs includes a default CRS (Business) or a primary CRS (Best Fares) and at least one secondary CRS (Fig. 4C Best Best Fare (S447) Fare Fight Selection (S449) Business, Coach or First Class Fight Selection (S451), col. 7, lines 44-50).

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate into the travel management method of Flake the default as taught in Jafri because when default values are already filled in issuance is simplified.

Referring to Claims 10 and 33:

Jafri disclose a method wherein allowing the client to book at least one travel item segment includes:

displaying available travel items (itineraries) accessed from the selected plurality of CRSs for the travel booking request (col. 2, lines 54-56, col. 3, lines 26-29) ;

allowing the client to select a desired travel item (col. 2, lines 55-57 displays the priced itineraries for selection by the user, col. 3, lines 29-32); and

for each selected travel item, booking the selected travel item with the respective CRS (col. 2, lines 61-66, col. 3, lines 29-30 - issues tickets implies booking; also col. 5, lines 54-57).

Referring to Claims 11 and 34:

Jafir does not discloses method and medium wherein only lowest cost travel item accessed from the selected plurality of CRSs is displayed.

However, Jafri discloses that while the selection process performed within the node does not guarantee the absolute lowest fare, the selection process gives reasonably low fares satisfying the most common user preferences (col. 5, lines 61-64)

It would have been obvious to one of ordinary skill in the art at the time of the invention to provide the disclosure of Jafri since common sense and good business practice dictate that many travelers cannot tolerate considerable inconvenience at the expense of saving money if there are inconvenient flight times or a large number of connecting flights in order to get the absolute best possible price.

Referring to Claim 18:

Flake does not disclose the system further comprising a terminal access editor to define a selection of a plurality of computer reservation systems for the client to be stored in a database and accessed during the travel booking request for the client.

However, Jafri discloses disclose the system further comprising a terminal access editor (Server files col. 3, line 65 thru col. 4, line 5 The Server files include Client Servicing files, in particular files relating to assignment of Terminal Addresses (TA) used to access the CRS) *The language to define a selection of a plurality of computer reservation systems for the client to be stored in a database and accessed during the travel booking request for the client* is directed to the intended use of the editor and the server is fully capable of performing this function).

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It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate into the disclosure of Flake the teachings of Jafri so that flights are selected in accordance with user preferences as stored in the reservation software.

Referring to claim 19:

Flake further discloses a system wherein the booking engine (Figure 1 (10)):

reads the database to determine the selected plurality of CRSs to be accessed during the travel booking request (vendor preferences (airlines), col. 3, line 59 thru col. 4, line 3); and

accesses the selected plurality of CRSs to check the availability of travel items at the CRSs for the travel booking request (col. 10, lines 54-63, Figure 9 Block 240).

Referring to Claim 20:

Flake does not discloses a system wherein the selection of the plurality of CRSs includes a default CRS or a primary CRS and at least one secondary CRS.

However, Jafri discloses wherein the selection of the plurality of CRSs includes a default CRS (Business, Coach or First Class Flight Selection) a primary CRS (Best Fare (S447)) and at least one secondary CRS (Figure 4c-4d, col. 5, lines 2-10)

It would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate into the disclosure of Flake the teachings of Jafri

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since this provides more options for the user to choose from if the actual users preference is unavailable while allowing the system to pursue other options in accordance with the users preference, eg. a user having specified best fare allows system to explore seats available in coach class or special fares lower in cost than standard seats in that class..

Referring to Claim 21:

Flake discloses a system further comprising a client interface (Fig. 1 (30) *to display available travel items accessed from the selected plurality of CRSs for the travel booking request at the client; and allow the client to select the desired travel item.*

The italicized language is directed to the intended use of the interface. The interface (workstation (30) in Flake is fully capable of displaying this type information since the workstation displays all available customer reservation service information 9col. 5, lines 3-6)

Referring to Claim 22:

Flake discloses a system wherein for each selected travel item, the booking engine books Figure 1 (10) the selected item with the respective CRS (col. 5, lines 3-6 – system 10 can receive, store, process, and display all available customer reservation service information, Figure 9(244)).

Referring to Claim 23:

The limitation that only the lowest cost travel item accessed is displayed is considered non-functional descriptive data that is not functionally interrelated with the structure of the system and thus will not distinguish the claimed invention

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form the prior art in terms of patentability. - see *In re Gulack*, 703 F.2d. 1381, 1385, 217 SUPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ 2d 1031 (Fed. Cir. 1994) The interface in Flake is fully capable of displaying all types of information.

Referring to Claims 35, 37 and 39:

The type of information associated with each CRS for a respective booked travel item segment is determined to be non-functional descriptive data not related to the steps of the method or the structure of the system. The method steps and system would be the same regardless of what type data since the data is not functionally interrelated with the steps of the method or the structure of the system and thus will not distinguish the claimed invention from the prior art in terms of patentability. - see *In re Gulack*, 703 F.2d. 1381, 1385, 217 SUPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ 2d 1031 (Fed. Cir. 1994).

Referring to Claims 36, 38, 40 and 43:

Jafri discloses wherein the CRSs include global distributions systems and direct connect CRS (Figure 2).

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(10) Response to Argument

The Examiner identifies abbreviations that are used throughout this Examiner's Answer and which are commonly used in the reservation industry:

CRS – Computer Reservation Systems (see appellant's discussion on pages 1-5 of the specification; col. 3, lines 8-34 of Flake; and col. 3, lines 13-24 of Jafri)

PNR - Passenger Name Record (see page 2 of appellant's specification; col. 8, lines 49-57 of Flake; and col.6, lines 22-32 of Jafri).

1. Independent Claims 1, 12, 24:

Appellant's first argument, appearing on page 9 of the appeal brief, is that **Flake does not teach or suggest generating a travel itinerary booking record or super PNR that includes information associated with at least one booked travel item segment and information identifying each CRS for a respective booked travel item segment.**

Claims 1 and 24 read as follows:

A method and machine readable medium having stored instructions for making travel related bookings, comprising:

providing access to a plurality of computer reservation systems (CRSs) for a client initiating a travel booking request,

allowing the client to book at least one travel item segment from any one of the accessible CRSs; and

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generating and storing a travel itinerary booking record including information associated with at least one booked travel segment and information identifying each CRS for a respective booked travel item segment, wherein at least one of the providing, allowing, and generating steps is performed by a data processing system.

Claim 12 reads as follows:

A travel management system (TMS) for making travel related bookings, the TMS comprising:

a server to provide access to a plurality of CRSs for a client,; and
a booking engine to allow the client to book at least book a travel item segment from any one of the accessible CRSs, wherein the booking engine generates a super passenger name record (PNR) including information associated with at least one booked travel item segment and information identifying each CRS for a respective booked travel item segment.

Referring to Claims 1 and 24, Flake discloses a method and medium for making travel related bookings, comprising **providing access to a plurality of computer reservation systems (CRSs) for a client initiating a travel booking request** (Figure 1 (14))for a client initiating a travel booking request, (col. 3, lines 16-34 (Apollo, Sabre, Worldspan and Amadeus; **allowing the client to book at least one travel item segment from any one of the accessible CRSs** (Figure 8 (196 Book Air Activity, 200 Book Rail Activity, 204 Book Car Activity, 208 Book

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Hotel Activity, 212 Book Special Needs Activity), col. 20, lines 16-19); and **generating and storing a travel itinerary booking record including information associated with at least one booked travel segment** (PNR col. 8, lines 49-57; col. 9, lines 57-62; and col. 11, lines 31-38; col. 14, lines 60-67); **wherein at least one of the providing, allowing, and generating steps is performed by a data processing system** (col. 3, lines 16-34; col. 5, lines 1-12).

Referring to Claim 12, Flake discloses a travel management system (TMS) for making travel related bookings, the TMS comprising **a server to provide access to a plurality of CRSs for a client**, (Figure 1 (14); and **a booking engine to allow the client to book at least book a travel item segment from any one of the accessible CRSs** (Figure 1 (10), col. 5, lines 3-6 (process and display all available customer reservation information.), **wherein the booking engine generates a passenger name record (PNR) including information associated with at least one booked travel item segment** (col. 8, lines 49-57; col. 9, lines 57-62; and col. 11, lines 31-38; col. 14, lines 62-67).

Flake discloses all of the limitation of claims 1, 12, and 24 with the exception of the passenger name record (PNR), while including information associated with at least one booked travel item segment, not also including **information identifying each CRS for a respective booked travel item segment.**

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Although Flake does not explicitly disclose the PNR disclosing information identifying each CRS for a respective booked travel segment, Flake disclose a process for automatically processing a returned ticket, wherein if the ticket is void, the system processes the void ticket by establishing communication with the appropriate CRS and noting the ticket as void in that CRS (col. 16, lines 27-35; see col. 15, line 25 through column 16, line 35) Flake discloses the system prompting the agent to determine whether or not the ticket is being returned for a refund. If so, the system processes the refund by establishing communication with appropriate CRS and ARC accounting system. Thus, the Examiner asserts that some information identifying each CRS for a respective booked travel item segment must be stored for the system of Flake to process ticket refunds by establishing communication with the appropriate CRS.

The Examiner rejected the limitation of the PNR including information identifying each CRS for a respective booked travel item segment in two ways:

1. The Examiner stated that the information identifying each CRS for a respective booked travel item segment included in the PNR information is determined to be non-functional descriptive data not related to the steps of the method. The method steps would be performed the same regardless of what type information data is included in the PNR record since the data is not functionally interrelated with the steps of the method. Thus, the Examiner stated that the data will not distinguish the claimed invention from the prior art in terms

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of patentability. - see *In re Gulack*, 703 F.2d. 1381, 1385, 217 SUPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ 2d 1031 (Fed. Cir. 1994).

2. The Examiner takes Official Notice that it is old and well known to document and record information associated with travel items so as to have the information available if the information is needed. The Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate into the travel management method of Flake a passenger travel record which includes the CRS for a booked travel segment so that all of the necessary information is in the one record and since the business practice of documenting travel arrangements in the PNR and keeping this information updated is designed to help the travel industry as well as the traveler by being able to access this information as needed.

1. Non-Functional Descriptive Data:

The appellant argues that the information identifying each CRS affects how a data processing system operates when generating such information and thus cannot be non-functional descriptive data.

The Examiner disagrees with appellant's argument. The claim limitation, as claimed by appellant in claims 1, 12, and 24, does not provide a new and unobvious functional relationship between the descriptive material and the substrate. Claim 1 and 24 have the steps of providing access, allowing the client to book, and generating a travel itinerary booking record. The information identifying each CRS for a respective booked travel item segment identifies

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information provided in a travel itinerary booking record. This information is data that is not utilized for any processing as set forth in the claim language. Thus, this data is not functionally related to the steps of the method.

Claim 12 is directed to a system with a booking engine wherein the booking engine generates a super passenger name record (PNR) including information associated with at least one booked travel item segment and information identifying each CRS for a respective booked travel item segment.

Here, again, the Examiner asserts that the type data stored in the PNR is determined to be non-functional descriptive data. The system would be structurally be the same regardless of what type data is on the record since the data is not functionally interrelated with the structure. Thus the data will not distinguish the claimed invention from the prior art in terms of patentability. - see *In re Gulack*, 703 F.2d. 1381, 1385, 217 SUPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ 2d 1031 (Fed. Cir. 1994).

Although, not an argument presented earlier in a rejection made by the Examiner, and not intended to be presented as a new ground of rejection, the appellant may note that claim 12 is directed to a system. Thus, the invention in claim 12 is directed to the structure of the system, i.e., a server which provides access to a plurality of systems and a booking engine that generates a record. The fact that the system is for use by a client to initiate a travel booking request is the intended use of the system. The fact that the record is a PNR and the information included in the passenger name record (PNR) further defines the record and not the system.

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The appellant discusses *In re Lowry* and *In re Gulack* and then distinguishes his claim language from these cases by stating that the method, system and machine-readable medium of the claimed invention dictate how the travel itinerary booking record and super PNR are generated and what information is provided thereon. The Examiner respectfully disagrees with appellant's assertion and in response reiterates that information data, as set forth in appellant's claims, is not utilized for processing in the steps of the method or the system.

Furthermore, the Examiner disagrees with appellant's assertion on page 10 of the appeal brief stating that the information identifying each CRS affects how a data processing system operates when generating such information and that code would need to be written to perform the function of the data processor. The fourth step of appellant's claim language states that ***at least one of the providing, allowing, and generating steps is performed by a data processing system***. Therefore, as claimed, the invention does not positively claim the generating step being performed by a data processing system.

2. Official Notice:

In the final Office action mailed on November 22, 2005, the Examiner took Official Notice that it is old and well known to document and record information associated with travel items so as to have the information available if the information is needed. The appellant submitted an after final amendment on

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January 30, 2006 wherein appellant requested that the Examiner produce a reference or other evidence supporting the Examiner's Official Notice.

The request is set forth below as found on the bottom of page 8 and the top of page 9 of the appellant's remarks submitted with the after final amendment.

Appellant initially request that the Examiner provide a reference or other evidence supporting the Official Notice assertion, as this conclusion is not "instant and unquestionable" as being well known at the time of the invention (MPEP Section 2144.03) ("Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known").

The Examiner responded to the appellant's amendment after final and the remarks accompanying the amendment in an advisory action mailed on March 1, 2006 wherein the Examiner provided the following explanation:

The appellant traverses the Examiner's official notice. However, a traverse is a denial of an opposing party's allegations of fact. The Examiner respectfully submits that applicant's arguments and comments do not appear to traverse what Examiner regards as knowledge that would have been generally available to one of ordinary skill in the art at the time the invention was made. Even if one were to interpret appellants' arguments and comments as constituting a traverse, applicant's arguments and comments do not appear to constitute an adequate traverse because appellant has not specifically pointed out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. 27 CFR 1.104(d)(2), MPEP 707.07(a). An adequate traverse must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying Examiner's notice of what is well known to one of ordinary skill in the art. In re Boon, 439 F.2d 724, 728, 169 USPQ 231, 234 (CCPA1971).

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The Official Notice was taken in the rejection in response to the appellant's amendments filed on August 24, 2005, wherein the appellant substantially amended the claim language in claims 1, 12, and 24 to add in the following language:

Claims 1 and 24, as amended, recited the following steps:

generating a travel itinerary booking record including information associated with at least one booked travel item segment and information identifying each CRS for a respective booked travel item segment, wherein at least one of the providing, allowing, and generating steps is performed by a processing system.

Claim 12, as amended, directed to a system set forth the following amended limitation:

wherein the booking engine generates a super passenger name record (PNR) including information associated with at least one booked travel item segment and information identifying each CRS for a respective booked travel item segment.

As set forth above, Flake discloses generating and storing a travel itinerary booking record including information associated with at least one booked travel segment (PNR col. 8, lines 49-57, col. 9, lines 57-62 and col. 11, lines 31-38). Flake states that consequently, a travel agent can retrieve and immediately review any previous travel arrangements a customer has made. Flake identifies a PNR as a record of travel arrangements made in the past for a customer which can be identified by the customer's name and which are

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preferably stored by system 10 (col. 8, lines 49-57). System 10 updates the customer's PNR in the relational database with the latest travel arrangement changes (col. 9, lines 57-62). The system updates the customer's PNR with the most current travel arrangements information (col. 11, lines 31-38).

Furthermore, Jafri discloses that a PNR is the basis of the reservation within the CRS (after communications are established, the reservation software will pass the Traveler Profile to the node (Step S47) to be used as a basis for a CRS Passenger name Record (PNR) (col. 6, lines 22-33).

The Examiner asserts that the Official Notice is appropriate because the facts asserted are well known and are capable of instant and unquestionable demonstration as being well known. The prior art cited by the Examiner provide such evidence. Both Flake and Jafri disclose PNRs. A PNR defines passenger name records which document and records information associated with travel items thereby allowing the information to be readily available if needed. A PNR is a record of travel arrangements and the records can be easily retrieved (Flake col. 8, lines 49-57). Jafri discloses a PNR as being the basis of the reservation within the CRS, *as is well-known in the art* (col. 6, lines 22-26).

Furthermore, although Flake does not explicitly disclose the PNR includes information identifying each CRS for a respective booked travel segment, Flake discloses a process for automatically processing a returned ticket, wherein if the ticket is void, the system processes the void ticket *by establishing communication with the appropriate CRS* and noting the ticket as void in that CRS (col. 16, lines 27-35). Flake further discloses the system prompting the

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agent to determine whether or not the ticket is being returned for a refund. If so, the system ***processes the refund by establishing communication with appropriate CRS and ARC accounting system***. Thus, it would seem that at least some information identifying each CRS for a respective booked travel item segment must be stored.

In addition, the Examiner asserts that the claim language, *generating a travel itinerary booking record including information associated with at least one booked travel segment*, is broadly written such that *information associated with at least one booked travel segment* could be any information associated with a travel segment, such as the name of the passenger. The terminology “information associated with” is very broad, as is the terminology, “at least one travel segment.” A travel segment could be a flight from NY to Chicago or the return from NY to Chicago. Any information associated with these flights would be considered “information associated with”. Thus, the name of the airline would qualify. Information identifying each CRS for a respective booked travel item could be the name of the airline where the CRS is a direct CRS as defined in appellant’s specification (page 1).

The appellant states that Flake teaches away from including information identifying each CRS for a respective booked travel item segment. Appellant argues that more specifically, Flake only discloses that a PNR is record of travel arrangements made in the past for a customer, which can identify a customer name. The Examiner respectfully disagrees with this argument and directs the appellant to column 9, lines 57-60, wherein Flake discloses that the system 10

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updates the customer's PNR in the relational database with the latest travel arrangement and changes and displays the updated PNR to the agent for review.

Flake discloses the system updating the customer's PNR with the most current travel arrangement information. Furthermore, it appears that the PNR identified in Flake is compatible with the PNR defined in the appellants specification on page 3, lines 11-16, wherein appellant identifies the PNR as follows:

[0010] Travel agencies store individual travel booking records in database records called passenger name records (PNRs). These records store the customer's personal information and individual reservation summaries for each airline reservation segment, car rental segment, and hotel segment contained in the booking. The summaries include a reference to the actual location of the inventory held by the segment.

In addition, the Examiner directs the applicant to *In re Gurley* (CA FC) 31 USPQ2d 1130, wherein it is disclosed that *[a] reference may be said to teach away when a person of ordinary skill, upon reading the reference, would be discouraged from following the path set out in the reference, or would be led in a direction divergent from the path that was taken by the applicant.*

Appellant further states that Flake also discloses queues and that the queues associated with a specific PNR can be sorted by CRS. The appellant then makes the leap that:

Because each PNR is sorted by CRS in order to carry out specific tasks relating to each PNR, Appellants submit that there is no teaching to include information identifying each CRS for a respective booked travel item segment. In this regard, Flake generally discloses that airline travel arrangements are associated with a specific airline CRS, while any other travel item segment (e.g., hotel or car rental) is associated with another particular CRS. Moreover, Flake only discloses that PNRs can be identified by a passenger's name. As such, there is simply no teaching within Flake to provide a travel itinerary booking record including

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information associated with at least one booked travel item segment and information identifying each CRS for a respective booked travel item segment, as recited by Claims 1, 12, and 24.

The Examiner submits that this disclosure does not preclude Flake from providing a travel itinerary booking record including information associated with at least one booked travel item segment and information identifying each CRS for a respective booked travel item. The discussion about queues starts with column 14, line 45 and continues through column 15, line 25 of Flake. This segment refers to Figure 14 which is an exemplary flowchart for a queue management software routine which can be used to redistribute actions associated with different PNRs from one queue to another or remove an action from a queue once the action has been completed. The Examiner submits that Figure 16 and the discussion as to Figure 16 are more relevant (column 15, line 59 thru column 16, line 45). This segment discloses an exemplary flowchart for a software-driven routine which an agency may use to automatically process a returned ticket. Flake discloses a process for automatically processing a returned ticket, wherein if the ticket is void, the system processes the void ticket **by establishing communication with the appropriate CRS** and noting the ticket as void in that CRS (col. 16, lines 27-35). Flake further discloses the system prompting the agent to determine whether or not the ticket is being returned for a refund. If so, the system **processes the refund by establishing communication with appropriate CRS and ARC accounting system**. Thus, the Examiner submits that information identifying each CRS for a respective booked travel item

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segment must be stored since the system can automatically establish communication with the appropriate CRS.

Appellant's arguments regarding Jafri are moot since Jafri was not used in the rejection of claims 1, 12, and 24.

2. Independent Claim 41:

Appellant argues **Flake does not teach or suggest generating a travel itinerary booking record or super PNR that includes information associated with a plurality of booked travel item segments, wherein each item segment is associated with a CRS and information identifying each CRS for a respective booked travel item segment.**

Claim 41 is directed to a method for making travel related bookings, comprising:

providing access to a plurality of computer reservation systems (CRSs) for a client initiating a travel booking request,

allowing the client to book a plurality of travel item segment from accessible CRSs; and

generating a travel itinerary booking record including information associated with the plurality of booked travel item segments, each booked travel item segment associated with a respective CRS and at least two booked travel segments are associated with different respective CRSs,

wherein at least one of the providing, allowing, and generating steps is performed by a data processing system.

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Claim 41 was included in the rejection of claims 1, 5, 24, and 28 in the Office action mailed on November 22, 2005. However, since appellant has argued this separately, the Examiner will address the claim separately and will address the arguments as to claim 41 by incorporating arguments made to claims 1, 12, and 24 since any arguments to these claims should also be directed to claim 41.

Referring to 41, Flake discloses a method and medium for making travel related bookings, comprising **providing access to a plurality of computer reservation systems (CRSs) for a client initiating a travel booking request** (Figure 1 (14))for a client initiating a travel booking request, (col. 3, lines 16-34 (Apollo, Sabre, Worldspan and Amadeus; **allowing the client to book at least one travel item segment from any one of the accessible CRSs** (Figure 8 (196 Book Air Activity, 200 Book Rail Activity, 204 Book Car Activity, 208 Book Hotel Activity, 212 Book Special Needs Activity), col. 20, lines 16-19); and **generating a travel itinerary booking record including information associated with at least one booked travel segment** (PNR col. 8, lines 49-57; col. 9, lines 57-62; and col. 11, lines 31-38; col. 14, lines 60-67); **wherein at least one of the providing, allowing, and generating steps is performed by a data processing system** (col. 3, lines 16-34; col. 5, lines 1-12).

Flake discloses all of the limitation of claim 41 with the exception of the following language:

the at least two booked travel item segments being associated with different respective CRSs.

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The appellant argues that Flake includes information derived from a single CRS, while independent Claim 41 recites that a PNR includes information for a plurality of booked travel item segments. The Examiner respectfully disagrees with the appellant's assertion that Flake only includes information derived from a single CRS and directs the appellant to Figure 1 (14) wherein Flake discloses multiple CRSs.

The appellant also provides arguments as to Jafri. However, Jafri was not used to reject claim 41.

Claim 41 requires that the prior art discloses a method for making travel related bookings, comprising **providing access to a plurality of computer reservation systems (CRSs) for a client initiating a travel booking request** (Flake, Figure 1 (14)), **allowing the client to book a plurality of travel items segments from accessible CRSs** (Figure 1 (14) (Figure 8 (196 Book (Figure 8 (196 Book Air Activity, 200 Book Rail Activity, 204 Book Car Activity, 208 Book Hotel Activity, 212 Book Special Needs Activity)), col. 3, lines 16-34; col. 20, lines 16-19); and **generating a travel itinerary booking record including information associated the plurality of booked travel item segments, each segment associated with a respective CRS** (Passenger Name Record, col. 8, lines 49-57; col. 9, lines 57-62; and col. 11, lines 31-38; col. 15, line 59 thru col. 16, line 45 automatically establishing communication with an appropriate CRS).

The fact that at least two booked travel item segments are associated with different respective CRSs further identifies the segment which is information contained in the PNR.

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As set forth above, the Examiner rejected the limitation as to *the two booked travel item segments being associated with different respective CRSs* in two ways:

1. The Examiner stated that the information identifying each CRS for a respective booked travel item segment which is included in the PNR information is determined to be non-functional descriptive data not related to the steps of the method. The method steps would be performed the same regardless of what type information data is included in the PNR record since the data is not functionally interrelated with the steps of the method. Thus, the Examiner stated that the data will not distinguish the claimed invention from the prior art in terms of patentability. - see *In re Gulack*, 703 F.2d. 1381, 1385, 217 SUPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ 2d 1031 (Fed. Cir. 1994).

2. The Examiner takes Official Notice that it is old and well known to document and record information associated with travel items so as to have the information available if the information is needed. The Examiner asserts that it would have been obvious to one of ordinary skill in the art at the time of the invention to incorporate into the travel management method of Flake a passenger travel record which includes a the CRS for a booked travel segment so that all of the necessary information is in the one record and since the business practice of documenting travel arrangements in the PNR and keeping this information updated is designed to help the travel industry as well as the traveler by being able to access this information as needed.

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1. Non-Functional Descriptive Data :

The appellant argues that the information identifying each CRS affects how a data processing system operates when generating such information. The Examiner respectfully disagrees with appellant's argument. The claim limitation, as claimed by appellant in claim 41, does not provide a new and unobvious functional relationship between the descriptive material and the substrate. Claim 41 has the steps of providing access, allowing the client to book, and generating a travel itinerary booking record. The information identifying each CRS for a respective booked travel item segment or the fact that the segments are associated with different CRSs identifies information provided with a travel itinerary booking record. This information is data that is not utilized for any further processing, thus, this data is not functionally related to the steps of the method.

Furthermore, the Examiner disagrees with appellant's assertion set forth on page 15, last paragraph, through to page 16, first paragraph, stating that the information identifying each CRS affects how a data processing system operates when generating such information and that code would need to be written to perform the function of the data processor. The claim language states that ***at least one of the providing, allowing, and generating steps is performed by a data processing system***. Therefore, as claimed, the invention does not positively recite this step being performed by a data processing system.

As stated in the discussion as to claims 1, 12, and 24, the Examiner asserts that the claim language, *generating a travel itinerary booking record including*

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information associated with at least one booked travel segment, is broadly written such that *information associated with at least one booked travel segment* could be any information associated with a travel segment, such as the name of the passenger. The terminology "information associated with" is very broad, as is the terminology, "at least one travel segment." A travel segment could be a flight from NY to Chicago or the return from NY to Chicago. Any information associated with these flights would be considered "information associated with". Thus, the name of the airline would qualify. Information identifying each CRS for a respective booked travel item could be the name of the airline where the CRS is a direct CRS as defined in appellant's specification (page 1). Furthermore, the claim limitation of *at least two booked travel item segments are associated with different respective CRSs* would be met by having information on a hotel and an airline booked by a direct CRS as defined in appellant's specification in the record, thereby having two booked travel segments associated with different CRSs.

2. Official Notice:

In the final Office action mailed on November 22, 2005, the Examiner took Official Notice that it is old and well known to document and record information associated with travel items so as to have the information available if the information is needed. The appellant submitted an after final amendment on January 30, 2006 wherein appellant requested that the Examiner produce a reference or other evidence supporting the Examiner's Official Notice.

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The request is set forth below as found on the bottom of page 8 and the top of page 9 of the appellant's remarks submitted with the after final amendment.

Appellant initially request that the Examiner provide a reference or other evidence supporting the Official Notice assertion, as this conclusion is not "instant and unquestionable" as being well known at the time of the invention (MPEP Section 2144.03) ("Official notice unsupported by documentary evidence should only be taken by the examiner where the facts asserted to be well-known, or to be common knowledge in the art are capable of instant and unquestionable demonstration as being well-known").

The Examiner responded to the appellant's amendment after final and the remarks accompanying the amendment in an advisory action mailed on March 1, 2006 wherein the Examiner provided the following explanation:

The appellant traverses the Examiner's official notice. However, a traverse is a denial of an opposing party's allegations of fact. The Examiner respectfully submits that applicant's arguments and comments do not appear to traverse what Examiner regards as knowledge that would have been generally available to one of ordinary skill in the art at the time the invention was made. Even if one were to interpret appellants' arguments and comments as constituting a traverse, applicant's arguments and comments do not appear to constitute an adequate traverse because appellant has not specifically pointed out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. 27 CFR 1.104(d)(2), MPEP 707.07(a). An adequate traverse must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying Examiner's notice of what is well known to one of ordinary skill in the art. *In re Boon*, 439 F.2d 724, 728, 169 USPQ 231, 234 (CCPA1971).

Official Notice was taken in the rejection in response to the appellant's amendments filed on August 24, 2005, wherein the appellant added claim 41 as a new claim in which the following claim language is found:

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Claim 41 recites the following step:

generating a travel itinerary booking record including information associated with a plurality of booked travel item segments, each booked travel item segment associated with a respective CRS and at least two booked travel item segments are associated with different respective CRSs;

wherein at least one of the providing, allowing, and generating steps is performed by a processing system.

As set forth above, Flake discloses **generating and storing a travel itinerary booking record including information associated with at least one booked travel segment** (PNR col. 8, lines 49-57, col. 9, lines 57-62 and col. 11, lines 31-38).

Flake states that consequently, a travel agent can retrieve and immediately review any previous travel arrangements a customer has made. Flake identifies a PNR as a record of travel arrangements made in the past for a customer which can be identified by the customer's name and which are preferably stored by system 10 (col. 8, lines 49-57). System 10 updates the customer's PNR in the relational database with the latest travel arrangement changes (col. 9, lines 57-62). The system updates the customer's PNR with the most current travel arrangements information (col. 11, lines 31-38).

Jafri discloses that a PNR is the basis of the reservation within the CRS, **as being well known in the art** (col. 6, lines 22-33).

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The Examiner asserts that the Official Notice is appropriate because the facts asserted are well known and are capable of instant and unquestionable demonstration as being well known. The prior art cited by the Examiner provide such evidence. Both Flake and Jafri disclose PNRs. A PNR defines passenger name records which document and records information associated with travel items thereby allowing the information to be readily available if needed. A PNR is a record of travel arrangements and the records can be easily retrieved (Flake col. 8, lines 49-57). Jafri discloses a PNR as being the basis of the reservation within the CRS, ***as is well-known in the art*** (col. 6, lines 22-26).

Furthermore, although Flake does not explicitly disclose the PNR includes information identifying each CRS for a respective booked travel segment, Flake discloses a process for automatically processing a returned ticket, wherein if the ticket is void, the system processes the void ticket ***by establishing communication with the appropriate CRS*** and noting the ticket as void in that CRS (col. 16, lines 27-35). Flake further discloses the system prompting the agent to determine whether or not the ticket is being returned for a refund. If so, the system ***processes the refund by establishing communication with appropriate CRS and ARC accounting system***. Thus, it would seem that at least some information identifying each CRS for a respective booked travel item segment must be stored.

In addition, the Examiner asserts that the claim language, *generating a travel itinerary booking record including information associated with at least one booked travel segment*, is broadly written such that *information associated with at*

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least one booked travel segment could be any information associated with a travel segment, such as the name of the passenger. The terminology "information associated with" is very broad, as is the terminology, "at least one travel segment." A travel segment could be a flight from NY to Chicago or the return from NY to Chicago. Any information associated with these flights would be considered "information associated with". Thus, the name of the airline would qualify. Information identifying each CRS for a respective booked travel item could be the name of the airline where the CRS is a direct CRS as defined in appellant's specification (page 1).

The appellant states that Flake teaches away from including information identifying each CRS for a respective booked travel item segment. Appellant argues that more specifically, Flake only discloses that a PNR is record of travel arrangements made in the past for a customer, which can identify a customer name. The Examiner respectfully disagrees with this argument and directs the appellant to column 9, lines 57-60, wherein Flake discloses that the system 10 updates the customer's PNR in the relational database with the latest travel arrangement and changes and displays the updated PNR to the agent for review. Flake discloses the system updating the customer's PNR with the most current travel arrangement information. Furthermore, it appears that the PNR identified in Flake is compatible with the PNR defined in the appellants specification on page 3, lines 11-16, wherein appellant identifies the PNR as follows:

[0010] Travel agencies store individual travel booking records in database records called passenger name records (PNRs). These records store the

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customer's personal information and individual reservation summaries for each airline reservation segment, car rental segment, and hotel segment contained in the booking. The summaries include a reference to the actual location of the inventory held by the segment.

Appellant further states that Flake also discloses queues and that the queues associated with a specific PNR can be sorted by CRS. The appellant then makes the leap that:

Because each PNR is sorted by CRS in order to carry out specific tasks relating to each PNR, Appellants submit that there is no teaching to include information identifying each CRS for a respective booked travel item segment. In this regard, Flake generally discloses that airline travel arrangements are associated with a specific airline CRS, while any other travel item segment (e.g., hotel or car rental) is associated with another particular CRS. Moreover, Flake only discloses that PNRs can be identified by a passenger's name. As such, there is simply no teaching within Flake to provide a travel itinerary booking record including information associated with at least one booked travel item segment and information identifying each CRS for a respective booked travel item segment, as recited by Claims 1, 12, and 24.

The Examiner submits that this disclosure does not preclude Flake from providing a travel itinerary booking record including information associated with at least one booked travel item segment and information identifying each CRS for a respective booked travel item. The discussion about queues starts with column 14, line 45 and continues through column 15, line 25 of Flake. This segment refers to Figure 14 which is an exemplary flowchart for a queue management software routine which can be used to redistribute actions associated with different PNRs from one queue to another or remove an action from a queue once the action has been completed. The Examiner submits that Figure 16 and the discussion as to Figure 16 are more relevant (column 15, line 59 thru column

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16, line 45). This segment discloses an exemplary flowchart for a software-driven routine which an agency may use to automatically process a returned ticket. Flake discloses a process for automatically processing a returned ticket, wherein if the ticket is void, the system processes the void ticket ***by establishing communication with the appropriate CRS*** and noting the ticket as void in that CRS (col. 16, lines 27-35). Flake further discloses the system prompting the agent to determine whether or not the ticket is being returned for a refund. If so, the system ***processes the refund by establishing communication with appropriate CRS and ARC accounting system***. Thus, the Examiner submits that information identifying each CRS for a respective booked travel item segment must be stored since the system can automatically establish communication with the appropriate CRS.

Appellant's arguments regarding Jafri are moot since Jafri was not used in the rejection of claim 41.

3. Dependent Claims 8, 19, and 31:

The appellant asserts that Flake does not disclose the limitations of dependent claims 8, 19, and 31. The Examiner respectfully disagrees.

Claims 8, 19, and 31 are directed to a method, system and medium wherein providing access to the plurality of computer reservation systems (CSRs) for the client includes reading a predefined selection of the plurality of CRSs to be accessed during the travel booking request and accessing the

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selected plurality of CRSs to check the availability of travel items at the CRSs for the travel booking request.

The Examiner asserts that the claim language requires that a predefined selection of a plurality of CRSs be read and then accessing the selected CRS to check the availability. As written, Flake disclose a plurality of CRSs (Figure 1 (14)). Flake discloses a predefined selection (user preferences) (Figures 7 and 8) and Flake discloses accessing a CRS to check for availability (Figure 9 (240)).

Flake discloses a method, system and medium ***wherein providing access to the plurality of computer reservation systems includes reading a predefined selection of the plurality of CRSs to be accessed during the travel booking request*** (col. 3, line 59 thru col. 4, line 3 (each profile contains vendor preferences and negotiated discount rate information; a list of preferred vendors (e.g. airlines), etc.), ***and accessing the selected plurality of CRSs to check the availability of travel items at the CRSs for the travel booking request*** (col. 10, lines 54-63 system 10 prompts the agent to identify whether or not a travel services vendor should be contracted in order to complete the selected action(s), Fig. 9 Block 240; Figure 7 steps 150-164; Figure 8 steps 186-222; Figure 9 (234) is vendor required, (238) Discuss options with vendor(s); (240) is requested service available (240).

Flake discloses each profile containing vendor preferences and a list of preferred vendors, wherein the vendors are listed as airlines, etc. (CRSs). Accessing the selected plurality of CRSs to check the availability of travel items would be accessing the preferred choice for a hotel, car, an airline, etc. (thus

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multiple CRSs as shown in Figures 7-8) and a determination being made as to whether the requested service is available as shown in Figure 9 (240).

As for whether a vendor is a CRS or not, the appellant discloses the following in appellant's specification on pages 1 and 2:

[0004] Market forces are driving on-line service providers of point-to-point travel reservation services to expand support beyond dependence on predominant computer reservation systems (CRSs), particularly global distribution systems (GDSs), as the only source of availability, pricing, and booking capabilities. The term CRS generally denotes GDSs and direct connect CRSs. A GDS is a set of internally networked databases, and the business logic that ties them together, for the primary purpose of managing the sale of airline, car rental, and hotel inventories. Today's GDSs include APOLLO, SABRE, WORLDSPAN, AMADEUS, and many others. A GDS is connected to a number of independent CRSs with which the GDS has a business relationship. For example, **a GDS may be connected to a CRS for airline travel items (e.g. SOUTHWEST AIRLINES), a CRS for rental car travel items (e.g. HERTZ), and a CRS for hotel travel items (e.g. HOLIDAY INN).** Moreover, many CRSs can now be connected to directly, to make reservations (often termed bookings) without going through a GDS, and are thus termed direct connect CRSs such as, for example: **a direct connect CRS for airline reservations (e.g. CONTINENTAL AIRLINES), a direct connect CRS for car reservations (e.g. ALLIED), a direct connect CRS for hotel reservations (e.g. RAMADA), etc.**

Thus, if a vendor is user's preferred hotel, or airline, or vehicle rental, the Examiner submits that the vendor preferences of Fake are clearly the selected CRSs that are accessed to check the availability of a travel item at the CRSs for a travel booking request, as set forth in claims 8, 10, and 31.

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4. Dependent Claims 9, 20, and 32:

Independent Claims 9, 20, and 32 are directed to predefined selections of the plurality of CRSs including a default CRS or a primary CRS and at least one secondary CRS.

First, reading the claim language, the claim limitations can be interpreted at least two ways. Although appellant's argues that the claim language identifies that there are a predefined selection of the plurality of CRSs, the appellant's claim language can be interpreted to define the plurality to include a single CRS, i.e, a single default CRS. The plurality could also be read to include a primary CRS and at least one secondary CRS. Thus, the predefined selections could be identified as (1) a default CRS and (2) a primary CRS and at least one secondary CRS. The predefined selections could be identified as (1) a default or primary CRS (wherein the term default and primary describe the same CRS) and (2) at least one secondary CRS.

Furthermore, the Examiner interprets a default to be an option that is selected automatically unless some other alternative is specified.

The Examiner rejected claims 9, 20, and 32 under 35 U.S.C. 103(a) as being unpatentable over Flake in view of Jafri stating that Jafri discloses the predefined selection of the plurality of CRSs includes a default CRS (Business) or a primary CRS (Best Fares) and at least one secondary CRS (Fig. 4C Best Best Fare (S447) Fare Flight Selection (S449) Business, Coach or First Class Flight Selection (S451), col. 7, lines 44-50).

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The Examiner interprets the first CRS to which the system relays the user information as being a default. Appellant has identified a CRS as also being a direct CRSs and provides the following examples: a CRS for airline travel items (e.g. Southwest Airlines), a CRS for rental car travel items (e.g. Hertz). Appellant identifies that a direct connect CRS for airlines is, e.g. Continental Airlines, a direct connect CRS for a car reservation, e.g. Allied, and a direct connect CRS for hotel reservations, e.g. Ramada (page 1 of appellant's specification).

Figure 3 of Jafri discloses segment reservation request. Jafri discloses that the Gateway files include files for establishing links to various CRSs (col. 4, lines 24-25). Connections to a CRS are referred to as Terminal Addresses or TAs. Looking at Figure 3, TA1 is one CRS, TA2 is another CRS and TA3 is a third CRS. As set forth in Jafri, lines 1, 3, and 4 are selected to flights on United Airlines (UA), Delta Airlines (DL) and TransWorld Airlines(TW), respectively. In order to obtain the best fares, the node thereafter attempts to complete Itinerary 1 on United using TA1, Itinerary 2 on Delta Airlines using TA2, and Itinerary 3 on TransWorld Airline using TA3. Jafri discloses that the foregoing process is repeated for the second segment of the desired trip. Again three different flights are selected, giving preference in each instance to a flight on the same airline as the first flight selected on a particular TA (col. 5, lines 31-37). Thus, the Examiner asserts that Jafri discloses a predefined selection of CRSs including a default CRS. The default CRS could be the automatic processing of United Airlines first, then Delta (secondary CRS), then TransWorld (third CRS). The default CRS could also be processing the flights automatically giving preference

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in each instance to a flight on the same airline as the first flight selected as set forth in Jafri (col. 5, lines 31-37).

5. Dependent Claim 18

Claim 18 is directed to a terminal access editor (TAE) to define a selection for the plurality of computer reservation systems (CRSs) for the client to be stored in a database and accessed during the travel booking request for the client.

The Examiner asserts that Jafri discloses a terminal access editor, at column 3, line 65 through column 4, line 23, wherein Jafri discloses:

(13) Referring still to FIG. 2, on the server side, files include Server files, relating to interaction with the Client, and Gateway files, relating to interaction with the CRS. The Server files include Client Servicing files, in particular files relating to the assignment of Terminal Addresses (TA) used to access the CRS and files relating to the algorithm used to process travel requests, including processing the request to the CRS and processing the response from the CRS. The Server files also include data base files. Within this category are user profiles stored in the server.

The appellant argues that the TAE of the claimed invention is a component of the super PNR TMS server that can be programmed for the client to define the CRSs the client wishes to use. Appellant then directs the Examiner to Figure 5 in appellant's application.

In response to appellant's argument that the references fail to show certain features of appellant's invention, it is noted that the features upon which appellant relies (i.e., that the TAE of the claimed invention is a component of the super PNR TMS server that can be programmed for the client to define the CRSs

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the client wishes to use) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The Examiner further notes that claim 18 is directed to a system. A recitation directed to the manner in which a claimed apparatus/system is intended to be used does not distinguish the claimed apparatus from the prior art if the prior art has the capability to so perform (MPEP 2114 and *Ex parte Masham*, 2 USPQ2d 1647 (1987)).

The appellant argues that appellants do not generically claim a TAE but rather a TAE that is used to define a selection of CRSs to be stored in a database and accessed during the booking. The Examiner not only asserts that Jafri is fully capable of performing the function of the TAE claimed by appellant, Jafi does perform this function. Jafri discloses on the server side, files include Server files, relating to interaction with the Client, and Gateway files, relating to interaction with the CRS. The Server files include Client Servicing files, in particular files relating to the assignment of Terminal Addresses (TA) used to access the CRS and files relating to the algorithm used to process travel requests, including processing the request to the CRS and processing the response from the CRS. The Server files also include data base files. Within this category are user profiles stored in the server.

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6. Dependent Claims 35, 37, and 39

Claims 35, 37 and 39 are directed to a method, system and medium wherein the information associated with each CRS for a respective booked travel item segment includes one of the name of the CRS and CRS locator.

Claims 35, 37, and 39 depend on claims 1, 12, and 24 respectively. For discussion of the limitation set forth in claims 35 and 39, the Examiner will incorporate the discussion as to claims 1 and 24 and for claim 37, the Examiner will incorporate the discussion as to claim 12.

The Examiner submits, as set forth above, that the information identifying each CRS for a respective booked travel item segment which is included in the PNR information is determined to be non-functional descriptive data not related to the steps of the method or the structure of the system. The method steps would be performed the same and the structure of the system would be the same regardless of what type information data is included in the PNR record since the data is not functionally interrelated with the steps of the method. Thus, the Examiner stated that the data will not distinguish the claimed invention from the prior art in terms of patentability. - see *In re Gulack*, 703 F.2d 1381, 1385, 217 SUPQ 401, 404 (Fed. Cir. 1983); *In re Lowry*, 32 F.3d 1579, 32 USPQ 2d 1031 (Fed. Cir. 1994).

Thus, the Examiner asserts that wherein the information associated with each CRS for a respective booked travel item segment includes at least one of a name of the CRS and a CRS locator is also non-functional descriptive data. The method steps would be performed the same and the structure of the system

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would be the same regardless of what type information data is included in the PNR record since the data is not functionally interrelated with the steps of the method.

The appellant argues that the information identifying each CRS affects how a data processing system operates when generating such information. The Examiner disagrees with appellant's argument. The claim limitation, as claimed by appellant in claims 1, 12, and 24, does not provide a new and unobvious functional relationship between the descriptive material and the substrate. Claim 1 and 24 have the steps of providing access, allowing the client to book, and generating a travel itinerary booking record. The information identifying each CRS for a respective booked travel item segment identifies information provided with a travel itinerary booking record. This information is data that is not utilized for any processing, thus, this data is not functionally related to the steps of the method.

Furthermore, the appellant states in the claims 1 and 24 that ***wherein at least one of the providing, allowing and generating steps is performed by a data processing system.*** Therefore there is no positive recitation requiring the generating step to be performed by the data processing system.

Furthermore, as set forth earlier in the discussion of claim 12, although not an argument presented earlier in a rejection made by the Examiner, the appellant may note that claim 12 is directed to a system. Thus, claim 12 is directed to a server which provides access to a plurality of systems and a booking engine that generates a record. The fact that the system is for use by a client to initiate a

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travel booking request is the intended use of the system. The information included in the record and the name of the record (PNR) further define the record and not the system.

In response to the appellant's argument that the specification of the present application elaborates upon the functionality of this information by stating that the CRS locator can be used to search for booking records such that a client can locate a PNR and create, change, or cancel booked travel item segments even though they are associated with different CRSs, the Examiner notes that the features upon which appellant relies (i.e., the CRS locator can be used to search for booking records such that a client can locate a PNR and create, change, or cancel booked travel item segments even though they are associated with different CRSs) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

The appellant asserts that Flake discloses that PNRs can be located in the rational database using the passenger's name and thus does not teach or suggest that any other information, other than standard PNR data, is stored on the PNR. The Examiner respectfully disagrees with this assertion and directs the appellant to column 8, lines 49-57 and discussions above as to Figure 16. Flake discloses that a PNR is a record of travel arrangements which can be identified by the customer's name. The Examiner asserts that the term travel

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arrangements can include any and all information relating to a travel arrangement.

Appellant argues that since Jafri states, in column 6, lines 25-26, that PNR is the basis of the reservation within the CRS, as is well known in the art, and that since Jafri discloses the PNR **can include** the passenger's name and registration number, column 7, lines 13-15, that Jafri does not teach or suggest that the PNR would include any additional information.

Jafri discloses in column 6, lines 23-36 the following:

(28) After communications are established, the reservation software will pass the Traveler Profile to the node (Step S47) to be used as a basis for a CRS Passenger Name Record (PNR). A PNR is the basis of the reservation within the CRS, as is well-known in the art. If the Traveler Profile has changed since the last connection with the node (Step S49), the node will also append the Traveler Profile to a text file named with the customer registration number (Step S411) for use by the travel agent. The customer registration number is entered during initial registration of the reservation software (not shown).

The term "include" means to comprise as a part of a whole. Thus, the Examiner asserts that to include a name and registration number in a PNR in no way precludes additional information from also being stored in the PNR.

Furthermore, as stated above Appellant has identified a CRS as also being a direct CRSs and provides the following examples: a CRS for airline travel items (e.g. Southwest Airlines), a CRS for rental car travel items (e.g. Hertz). Appellant identifies that a direct connect CRS for airlines is, e.g. Continental Airlines, a direct connect CRS for a car reservation, e.g. Allied, and a direct connect CRS for hotel reservations, e.g. Ramada (page 1 of appellant's specification).

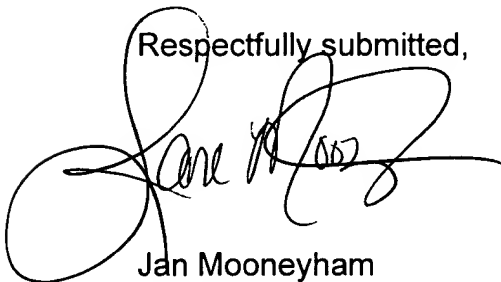
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The Examiner asserts that the claim language, as written, only require that the prior art disclosure include at least one of a name of a CRS or a CRS locator, but not both.

Thus, the Examiner asserts that Flake discloses travel arrangements and travel arrangements could include information about an airline flight, i.e., United Airline, which can be a CRS, as defined by appellant above in the specification. Thus, Flake need only incorporate the airline flight information into the travel arrangements of the PNR to meet the claim limitation.

For the above reasons, it is believed that the rejections should be sustained.

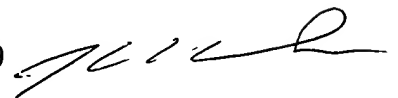
Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Jan Mooneyham', written over the typed name.

Jan Mooneyham
Primary Patent Examiner
Art Unit 3629

Conferees

John Weiss, Supervisory Patent Examiner, Art Unit 3629

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Dean Nguyen, Primary Patent Examiner, Art Unit 3629

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